

## REMARKS

1. Claim 11 was rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Claim 11 is canceled.

2. Claims 1-15, 21-24, 26, 27 were rejected under 35 U.S.C. 103(a) over Lin et al. (US 6,127,227) in view of Wang et al. (US 2005.0110102).

Claim 1 is directed to “forming sidewall dielectric ... where at least one sidewall ... includes at least three exposed material layers”. Claim 1 recites an ISSG process with a certain parameter range ( $H_2:O_2$  flow ratio).

Wang describes an ISSG process, and it will be assumed for the sake of argument that Wang’s parameter range overlaps with the applicant’s range. However, Wang does not oxidize a sidewall with at least three materials as in claim 1. Wang oxidizes silicon nitride serving as a charge storage layer (paragraph 0004, last two lines). The oxide formed on the silicon nitride insulates the silicon nitride from a polysilicon gate. In order to obtain thick oxide for this insulation, Wang advocates his ISSG process as providing “rapid oxidation of silicon nitride” (paragraph 0011).

Lin’s charge storage is performed by “polysilicon of the floating gate” (see abstract lines 3-4), not by silicon nitride. Lin’s silicon nitride is part of ONO insulation between the floating and control gates. Lin provides no reason for oxidizing the ONO nitride when forming sidewall oxide 60 (Fig. 1) or 170 (Fig. 2H). Lin’s nitride itself provides insulation, and oxide is already present in the ONO between the nitride and the gates. Wang’s emphasis on high oxidation rate of silicon nitride teaches away from using Wang’s ISSG process parameters in Lin’s structure. See MPEP 2145, section X.D.2, entitled “References Cannot Be Combined Where Reference Teaches Away from Their Combination”.

3. Claim 23 is believed to be allowable for similar reasons.

4. If a fee is required for this submission, please charge the fee or any underpayment thereof, or credit any overpayment, to deposit account 08-1394.

Any questions regarding this case can be addressed to the undersigned at the telephone number below.

Certificate of Transmission: I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office (USPTO) via the USPTO's electronic filing system on July 15, 2010.

*Michael Shenker*

Attorney for Applicant(s)

Date of Signature

*July 15, 2010*

Respectfully submitted,

*Michael Shenker*

Michael Shenker

Patent Attorney

Reg. No. 34,250

Telephone: (408) 660-4157

Law Offices Of

Haynes and Boone, LLP